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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,499	03/23/2004	Eric J. Streciwilk	380-176	2776
1009	7590	05/01/2007		
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			EXAMINER TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	
			MAIL DATE	DELIVERY MODE
			05/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/806,499

Applicant(s)

STRECIWILK, ERIC J.

Examiner

Terrence R. Till

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/2/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Weber (US 5,514,418).
3. Weber discloses an agitator cavity11 fitting for a nozzle assembly of a floor cleaning apparatus, comprising a body including a cooperating air guide and conduit 12, said conduit defining an intake port.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-21 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 5,513,418) in view of McCormick (US 6,289,552- cited in IDS).
7. The patent to Weber discloses an agitator cavity fitting 11 carried by a nozzle assembly 10, said agitator cavity fitting including a cooperating air guide and conduit 12, said conduit defining an intake port, means for mounting said agitator cavity fitting (lugs 42,44) to said nozzle assembly and including at least one mounting lug. The agitator cavity of Weber is also considered to disclose connectors (rivets- see column 3, lines 10-15), at least one receiver (corresponding attachment point of nozzle assembly) and wherein said air guide partially lines said agitator cavity. Although the agitator cavity of Weber is for a floor cleaner, Weber does not disclose those components that go to make an operational floor cleaner. The patent to McCormick discloses a floor cleaner having a nozzle assembly including a housing 94 defining an agitator cavity 50 a canister assembly 18 connected to said nozzle assembly; a suction generator 33 carried by one of said canister assembly; and a dirt collection vessel 34 carried by said canister assembly. It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Weber with a nozzle assembly, canister assembly suction generator and dirt collection vessel in view of the teaching of McCormick in order to make a complete, operational floor cleaner. With respect to claims 4, 5, McCormick is considered to disclose said housing includes at least one aperture receiving said at least one mounting lug as McCormick also employs lugs 52 for the agitator cavity and there must be a corresponding aperture, or recess, to receive the lugs. With respect to claims 8 and 17,

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McCormick is considered to disclose the housing includes at least one slot for receiving said at least one connector (rivet of Weber) as there needs to be a corresponding anchor point for the lug of Weber to attach to the nozzle housing. With respect to claims 9, 10, 18, and 19, it is also obvious that the nozzle housing also includes a channel for receiving said air guide, as there would clearly need to be a channel to accommodate the air guide and conduit 12 of Weber. With respect to claim 21, the "tab" is considered to be the lug 42 of Weber and the notch is considered to be corresponding aperture, or recess, to receive the lugs.

### ***Conclusion***

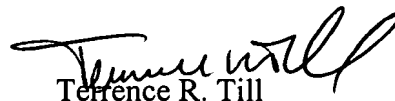
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Tschudy, Roney et al. and Weber '185 show the current state of the art in agitator housings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Terrence R. Till  
Primary Examiner  
Art Unit 1744

trt